

IC 23-19-4.1

Chapter 4.1. Senior Savings Protection

IC 23-19-4.1-1

"Financial exploitation"

Sec. 1. As used in this chapter, "financial exploitation" means the wrongful or unauthorized taking, withholding, appropriation, or use of money, real property, or personal property of a financially endangered adult.

As added by P.L.39-2016, SEC.1.

IC 23-19-4.1-2

"Financially endangered adult"

Sec. 2. As used in this chapter, "financially endangered adult" means an individual to whom one (1) or more of the following apply:

- (1) The individual is at least sixty-five (65) years of age.
- (2) The individual is:
 - (A) at least eighteen (18) years of age; and
 - (B) incapable, by reason of:
 - (i) mental illness;
 - (ii) intellectual disability;
 - (iii) dementia; or
 - (iv) other physical or mental incapacity;of managing or directing the management of the individual's property.

As added by P.L.39-2016, SEC.1.

IC 23-19-4.1-3

"Immediate family member"

Sec. 3. As used in this chapter, "immediate family member" means a spouse, child, parent, or sibling.

As added by P.L.39-2016, SEC.1.

IC 23-19-4.1-4

"Protective agencies"

Sec. 4. As used in this chapter, "protective agencies" refers to both of the following:

- (1) The adult protective services unit described in IC 12-10-3-1.
- (2) The commissioner.

As added by P.L.39-2016, SEC.1.

IC 23-19-4.1-5

"Qualified individual"

Sec. 5. As used in this chapter, "qualified individual" means an individual associated with a broker-dealer who serves in a supervisory, compliance, or legal capacity as part of the individual's job.

As added by P.L.39-2016, SEC.1.

IC 23-19-4.1-6

Suspected financial exploitation of financially endangered adult; duty of qualified individual to report and notify commissioner; authorized additional notifications

Sec. 6. (a) If a qualified individual has reason to believe that financial exploitation of a financially endangered adult has occurred, has been attempted, or is being attempted, the qualified individual shall, as required by IC 12-10-3-9(a):

- (1) make a report to an entity listed in IC 12-10-3-10(a); and
- (2) notify the commissioner.

(b) After a qualified individual makes a report and provides notification under subsection (a), the qualified individual may, to the extent permitted under federal law, notify any of the following concerning the qualified individual's belief:

- (1) An immediate family member of the financially endangered adult.
- (2) A legal guardian of the financially endangered adult.
- (3) A conservator of the financially endangered adult.
- (4) A trustee, cotrustee, or successor trustee of the account of the financially endangered adult.
- (5) An agent under a power of attorney of the financially endangered adult.
- (6) Any other person permitted under existing laws, rules, regulations, or customer agreement.

As added by P.L.39-2016, SEC.1.

IC 23-19-4.1-7

Qualified individual's authority to refuse to disburse funds; notice to protective agencies and parties on account; expiration of refusal; court order extending refusal or providing protective relief

Sec. 7. (a) A qualified individual may refuse a request for disbursement of funds from an account:

- (1) owned by a financially endangered adult; or
- (2) of which a financially endangered adult is a beneficiary or beneficial owner;

if the qualified individual has reason to believe that the requested disbursement may result in financial exploitation of the financially endangered adult.

(b) If a qualified individual refuses a request for disbursement under subsection (a), a broker-dealer involved in the transaction or the qualified individual shall:

- (1) subject to subsection (c), make a reasonable effort to notify all parties authorized to transact business on the account:
 - (A) orally; or
 - (B) in writing by:
 - (i) electronic communication; or
 - (ii) mail postmarked;

not more than two (2) business days after the qualified

individual refuses the request for disbursement; and

(2) notify the protective agencies:

(A) orally; or

(B) in writing by:

(i) electronic communication; or

(ii) mail postmarked;

not more than three (3) business days after the qualified individual refuses the request for disbursement.

(c) A broker-dealer or the qualified individual described in subsection (b) is not required to contact a party authorized to transact business on the account if the broker-dealer or qualified individual has reason to believe that the party has engaged in suspected or attempted financial exploitation of the financially endangered adult.

(d) Unless a court or the commissioner enters an order extending the refusal of disbursement or providing any other applicable protective relief, any refusal of disbursement under this section expires upon the earlier of the following:

(1) The date that the qualified individual has reason to believe that the disbursement will not result in financial exploitation of the financially endangered adult.

(2) Fifteen (15) business days after the date of the initial refusal of disbursement by the qualified individual. However, if a broker-dealer's internal review of the facts and circumstances supports the broker-dealer's reasonable belief that the financial exploitation of the financially endangered adult has occurred, is occurring, has been attempted, or will be attempted, the commissioner shall extend the refusal of disbursement for an additional fifteen (15) business days after the expiration date that would otherwise apply under this subdivision.

(e) A court with jurisdiction may enter an order that:

(1) extends a refusal of disbursement; or

(2) provides for any other protective relief.

(f) After:

(1) a broker-dealer or qualified individual provides notice under subsection (b); and

(2) the refusal of disbursement has expired or a court or the commissioner has entered an order as described in subsection (d) or (e)(1);

the broker-dealer or qualified individual shall notify, in writing, the protective agencies of the expiration or the order, as applicable.

As added by P.L.39-2016, SEC.1.

IC 23-19-4.1-8

Immunity for broker-dealers and qualified individuals; authority of commissioner to access books and records not impeded

Sec. 8. Notwithstanding any other provision of law, a broker-dealer or a qualified individual who, in good faith, complies with section 6 or 7 of this chapter, is immune from any

administrative or civil liability for actions taken in accordance with those sections. A broker-dealer or qualified individual who, in good faith, releases or does not release copies of records under section 9 of this chapter is immune from any civil liability for release of such records or failing to release such records. This chapter does not limit or otherwise impede the authority of the commissioner to access or examine books and records of broker-dealers as otherwise provided by law.

As added by P.L.39-2016, SEC.1.

IC 23-19-4.1-9

Authority of broker-dealers to provide records relevant to suspected financial exploitation to protective agencies or law enforcement; records confidential

Sec. 9. (a) A broker-dealer may provide to protective agencies or law enforcement access to or copies of records that are relevant to the suspected financial exploitation of a financially endangered adult. The records may include records relating to:

- (1) disbursement of any funds from an account of the financially endangered adult; and
- (2) disbursements of funds that comprise the suspected financial exploitation of a financially endangered adult.

(b) All records made available to the protective agencies under this section are confidential under IC 5-14-3.

As added by P.L.39-2016, SEC.1.

IC 23-19-4.1-10

Duty of commissioner to develop training resources for broker-dealers and qualified individuals; availability on secretary of state's web site

Sec. 10. Not later than September 1, 2017, the commissioner shall develop and make available on the secretary of state's Internet web site information that includes training resources to assist broker-dealers and qualified individuals in the prevention and detection of financial exploitation of financially endangered adults. The training resources must include information on:

- (1) indicators of financial exploitation of financially endangered adults; and
- (2) the potential steps broker-dealers and qualified individuals can take, under Indiana law, to prevent suspected financial exploitation of financially endangered adults.

As added by P.L.39-2016, SEC.1.

IC 23-19-4.1-11

Commissioner's authority to adopt rules

Sec. 11. The commissioner may adopt rules under IC 23-19-6-5 to implement this chapter.

As added by P.L.39-2016, SEC.1.